



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO GREENLAWN MEMORY GARDENS, INC.

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 , 62.1-44.15(8a) and (8d), and §62.1-44.34:20 between the State Water Control Board and Greenlawn Memory Gardens, Inc., for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Greenlawn" means Greenlawn Memory Gardens, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
6. "NOV" means Notice of Violation.

7. “Order” means this document, also known as a Consent Special Order.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “Property” means the +/- 73.2 acres in five adjacent parcels described in Page 237 of Book 0202, Page 601 of Book 0224, Page 671 of Book 0186, Page 313 of Book 0703, and Page 368 of Book 0564, recorded in the Clerk’s Office of the Circuit Court of Hanover County and owned by Greenlawn Memory Gardens, Inc.

SECTION C: Findings of Fact and Conclusions of Law

- 1) Greenlawn Memory Gardens, Inc. (“Greenlawn”) is the owner of +/-73.2 acres over five adjacent parcels and located at 13389 Mountain Road in Hanover County, Virginia (“Property”).
- 2) DEQ staff inspected the Property on March 9, 2006, after receiving information that unauthorized impacts to wetlands may have occurred at that location. Staff observed approximately 2.11 acres of forested wetlands on the Property that had been cleared, grubbed, and partially filled. Staff also observed approximately 0.16 acres of forested wetlands on the Property that had been filled. A review of DEQ files indicated that Greenlawn did not obtain a Virginia Water Protection (“VWP”) Permit authorizing the impacts to wetlands on the Property, as required by Va. Code §62.1-44.15:5.D and 9 VAC 25-210-50 of the VWP Permit Regulation.
- 3) Notice of Violation (“NOV”) No. 06-03-PRO-604 was issued to Greenlawn on March 24, 2006 for the apparent violation of Va. Code §62.1-44.15:5.D and 9 VAC 25-210-50.
- 4) A meeting to discuss the NOV was held on the site on April 7, 2006. During the meeting the owner’s representative indicated that Greenlawn would begin the process of correcting the violations.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d) and §62.1-44.34:20, orders Greenlawn Memory Gardens, Inc., and Greenlawn Memory Gardens, Inc. agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Greenlawn Memory Gardens, Inc., and Greenlawn Memory Gardens, Inc. voluntarily agrees, to pay a civil charge of \$15,165 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification Number for Greenlawn.

Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Greenlawn Memory Gardens, Inc., for good cause shown by Greenlawn, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Greenlawn Memory Gardens, Inc. by DEQ on March 24, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Property as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Greenlawn Memory Gardens, Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Greenlawn Memory Gardens, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Greenlawn Memory Gardens, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Greenlawn Memory Gardens, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Greenlawn Memory Gardens, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Greenlawn shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Greenlawn shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the Greenlawn Memory Gardens, Inc. Notwithstanding the foregoing, Greenlawn agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Greenlawn Memory Gardens, Inc. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Greenlawn from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Greenlawn Memory Gardens, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this September 8, 2006.

Gerard Seeley, Jr.
Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

Greenlawn Memory Gardens, Inc. voluntarily agrees to the issuance of this Order.

By: Elizabeth Gassman
Ms. Elizabeth Gassman
Greenlawn Memory Gardens, Inc.

Date: 6-27-06

Commonwealth of Virginia

City/County of Richmond

The foregoing document was signed and acknowledged before me this 29th day of
June, 2006, by Elizabeth Gassman, who is
(name)

Treasurer of Greenlawn Memory Gardens, Inc., on behalf of Greenlawn Memory
(title)

Gardens, Inc..

James M. Hawin
Notary Public
My commission expires: April 30, 2008

APPENDIX A
GREENLAWN MEMORY GARDENS, INC.

1. No later than August 1, 2006 Greenlawn Memory Gardens, Inc. shall:
 - a. Submit a Joint Permit Application (“Application”) to the Virginia Marine Resources Commission, with a copy to DEQ, requesting authorization for any proposed impacts to the wetlands on the Property. The Application shall contain all of the information required by 9 VAC 25-210-80.B. If impacts are proposed, Greenlawn Memory Gardens shall obtain a wetland delineation of the Property and shall submit with the Application a copy of the resulting delineation report and delineation map. If no impacts are proposed, neither the Application nor a delineation of the Property is required.
 - b. Submit a Wetland Restoration Plan (“Plan”) to DEQ. The plan shall propose measures to restore the previously disturbed wetlands on the Property that are not proposed for permanent impact by the Application. The content of the Plan shall include, but may not be limited to, those items listed in 9 VAC 25-210-80.B.1(k)(4)(c) and (d). Greenlawn shall incorporate additional project-specific items into the plan upon request by DEQ. Upon DEQ approval, Greenlawn shall implement the Plan and the schedule therein. Any changes to the approved Plan or schedule shall not be implemented without advance notice to and approval by DEQ.
2. Greenlawn Memory Gardens, Inc. shall monitor the restored wetlands each year for at least 5 years, in accordance with the approved Plan. Monitoring of the restored wetlands shall begin at the first complete growing season after construction (Year 1) and continue annually thereafter for an additional 4 years. Monitoring reports shall be prepared in accordance with the approved Plan and shall be submitted no later than December 31st of each monitoring year.
 - a. If the restored wetland or stream areas fail to meet the specified success criteria during any monitoring year other than the final monitoring year, or if visual observations conclude that the site is not progressing towards the overall restoration goals, the reasons for this failure shall be determined and a corrective action plan (including proposed actions, a schedule, and a monitoring plan) shall be submitted to DEQ for approval with or before that year's monitoring report. The DEQ-approved corrective action plan shall be implemented by the permittee in accordance with the approved schedule.
 - b. If all success criteria have not been met by the last monitoring year, or if visual observations conclude that the site has not met the overall restoration goals, Greenlawn shall submit an analysis of the underlying reasons for restoration failure with that final year’s monitoring report. If corrective action will rectify the deficiencies, such actions shall be implemented in accordance with a DEQ-

approved corrective action plan submitted with the analysis. Annual monitoring shall continue until two sequential annual reports indicate that all success criteria have been satisfied and the restoration site has met the overall restoration goals. If the analysis indicates that corrective action cannot sufficiently address the reasons for site failure, Greenlawn shall submit with the analysis an alternate mitigation plan for the unsuccessfully restored wetlands. The proposed mitigation shall be in accordance with the applicable provisions of provisions of § 62.1- 44.15:5 E of the Code of Virginia and 9 VAC 25-210-115. Proof of purchase of mitigation bank credits or contribution to an in-lieu fee fund shall be submitted within 60 days of alternate mitigation plan approval by DEQ.

3. Unless otherwise indicated, all requirements of Appendix A of this Order shall be submitted to:

Allison C. Dunaway
Enforcement Specialist, Sr.
VA DEQ – Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
Phone: (804) 527-5015
Fax: (804) 527-5106
Email: acdunaway@deq.virginia.gov